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Lafferty v. St. Riel

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PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-5357

DEBRA A. LAFFERTY; RANDOLPH C.
LAFFERTY, HER HUSBAND,
Appellants

v.

GITO ST. RIEL; ACHENBACH'S PASTRIES, INC.;
JOHN DOE; MARY DOE; ABC PARTNERSHIPS; DEF
CORPORATIONS; XYZ CORPORATIONS, JOINTLY,
SEVERALLY AND/OR IN THE ALTERNATIVE

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 05-cv-04094)
Chief District Judge: Honorable Harvey Bartle, III

Submitted Under Third Circuit LAR 34.1(a)
January 9, 2007

Before: McKEE, AMBRO and FISHER, Circuit Judges

(Filed: July 19, 2007)

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ORDER AMENDING SLIP OPINION

AMBRO, *Circuit Judge*

It is now ordered that the published Opinion in the above case filed July 13, 2007, be amended as follows:

On page 2, in the caption, the address has been corrected from “NY” to “NJ”, so that the last line of the first address reads “Linwood, NJ 08221.”

On page 5, in the last sentence of footnote 2 (continued from the previous page), “*id.*,” which follows “. . . marketing activities,” should be moved to the end of the line, so that the sentence reads as follows:

“No discovery was undertaken to determine [the company’s] State of incorporation” nor the extent of its marketing activities, and no mention was made whether “there [was] no district in which the action may otherwise be brought” under the statute. *Id.*

On page 7, the first sentence should be changed to read: “As the District Court noted, a federal court must apply the substantive laws of its forum state in diversity actions.”

On page 8, footnote 6, in the fifth and sixth lines, “court” should be “forum” in two instances, so that it reads “the transferee forum’s statute of limitations is shorter than that of the transferor forum.”

On page 12, in the eighth line, the parenthetical “(New Jersey)” should be changed to read “(the District of New Jersey).”

On page 13, footnote 7, add an “(a)” after “§ 1406,” so that it reads “§ 1406(a).”

On page 15, after the citation, “369 U.S. at 466–67,” the two parentheticals

should be combined and changed to read, “(emphases added, citations omitted).”

On page 16, in the first sentence of the first full paragraph, “§ 1406(a) transfer” should be inserted between “the” and “provision,” so that the sentence reads, “*Goldlawr* establishes the following: (1) the § 1406(a) transfer provision”

On page 17, in the first line “objections” should be changed to “objection.”

On page 17, in the fourth line, “was” should be changed to “is.”

On page 18, in the fifth line, add an “(a)” after “§ 1406,” so that it reads “§ 1406(a).”

On page 18, in the ninth line of the paragraph beginning “In *Young v. Clantech, Inc.*, . . .” remove the hyphen from “re-filed” so that it reads “refiled.”

On page 20, the first sentence of the paragraph beginning “The other Courts of Appeals . . .,” should be changed to read, “The other Courts of Appeals that have considered this issue—the Second, Fifth, and Sixth Circuits—seem to have once applied”

On page 23, after the block quote, the word “emphasis” should be plural, so that the parenthetical reads, “(emphases added).”

On page 29, in the sixth line, replace “the” with “§ 5103(b)’s,” so that it reads “. . . thus is not subject to § 5103(b)’s refiling requirements.”

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: July 19, 2007

SLC/cc: Daniel J. Cahill, Esq.

Lloyd G. Parry, Esq.